

the day for the further consideration of this bill in committee be discharged.

MR. PARKER: Is it the intention of the Government to drop this bill altogether?

THE ATTORNEY GENERAL (Hon. C. N. Warton): Yes.

MR. PARKER: I think it is a great pity. It seems to me to be a very useful and necessary bill; but, of course, if the Government will not proceed with it we cannot make them do so.

Motion put and passed.

The House adjourned at half-past eleven o'clock, p.m.

## LEGISLATIVE COUNCIL,

*Tuesday, 4th December, 1888.*

Appropriation Bill, 1889: third reading—Law of Distress Bill: third reading—Railways Act, 1878, Amendment (Closure of Streets) Bill: in committee—Newspaper Libel and Registration Bill: in committee—General Loan and Inscribed Stock Act Amendment Bill: second reading—Land Regulations Arbitration Bill: second reading—Geological Museum at Albany—Private work done by Civil Servants—Adjournment.

THE SPEAKER took the Chair at seven o'clock, p.m.

PRAYERS.

### APPROPRIATION BILL, 1889.

Read a third time.

### LAW OF DISTRESS BILL.

Read a third time.

### RAILWAYS ACT, 1878, AMENDMENT (CLOSURE OF STREETS) BILL.

On the order of the day for going into committee upon this bill,

MR. PARKER said he felt it his duty to oppose the bill at every stage, and he did so more especially now that he had seen the new clause proposed to be in-

troduced, calling upon the Railway Company to bear all the expense in connection with the re-opening of streets and the providing of level crossings. As he had already pointed out on the second reading of the bill there was a statutory contract between the Government and this company, and this bill contemplated a distinct variation of that contract, without the consent or (so far as they knew) the knowledge of one of the contracting parties. Such a proceeding would be regarded as a distinct breach of faith between private individuals, and he could only regard it in that light when the Government or the Legislature of the colony resorted to it. It had been argued that this bill did not alter nor vary the terms of the contract, nor give any additional power to the Governor that he did not already possess under the contract. If so, there was no necessity for the bill. The proper way for the Government, if there was a difference of understanding between them and the contractors, was—not to take advantage of their position as the Government and legislate in their own favor, but to refer the matter in dispute to arbitration, as provided for in the contract, with a view of arriving at some amicable settlement of the point in dispute. The company, he believed, had never refused to deal reasonably with the Government, and they were told the other day by the Commissioner of Railways that they had done all that was necessary for the accommodation of the Albany people at present. If no additional imposition was placed upon the company by this bill, what was the use of the bill? If the Government or the Commissioner already possessed this power of re-opening streets, and the Company were bound under their contract to do all these things, what occasion was there for the bill? As a matter of fact they knew there was no such power, they knew there was no such obligation—they knew that the first clause of the contract did not refer to streets at all, but to accommodation roads for the convenience of those occupying lands intersected by the railway. He defied any lawyer to read that clause, and say that it referred to streets. He had been twitted with holding a brief for the company in this matter—he did nothing of the kind; he had never been consulted

in the matter. The hon. member who brought in the bill clearly held a brief for his own constituents, and with him was the hon. and learned member for the North, who had professionally advised the municipality in the matter. But he did not care for that. He asked the House to discard from consideration who it was that brought forward these arguments, for or against the bill, and to consider only the arguments themselves. He could not help thinking that House would be acting most unwisely, most injudiciously, most unfairly, and in a manner that would be a slur upon the good name of the colony—in fact, he regarded it as nothing else but a policy of repudiation—if it imposed upon the company the obligations which this bill proposed to place upon them, and place upon them without their consent, and contrary to the terms of their contract, simply because being the stronger party, and having the power of legislating, it desired to vary the terms of the contract. The new clause standing in the name of the hon. and learned member for the North proposed to saddle the contractor with additional expense that was never contemplated in the original compact, and it did so without the leave or consent of one of the contracting parties, and when there was another course provided in the contract itself for dealing with all matters in dispute. In these circumstances he felt it his bounden duty, in the interests of the good name of the colony itself, to move as an amendment—that the House go into committee on this bill that day three months.

SIR T. COCKBURN - CAMPBELL thought it was scarcely necessary for him to interpose a word. The hon. and learned member had given them his legal opinion, and they had had other legal opinion which perhaps they respected equally as much as that of the hon. member; and the House, having heard both sides, decided by an overwhelming majority that the bill was a desirable and a necessary bill. It was simply intended to provide the means required by the Government for the carrying out of the contract, and so to protect the interests of the public.

Amendment put and negatived.

THE COLONIAL SECRETARY (Hon. Sir M. Fraser): If I am not out of order

I will move that Your Honor take the chair in committee, on this occasion.

THE SPEAKER: If there is no objection on the part of the House, I have no objection.

#### IN COMMITTEE:

Clause 1—"It shall be lawful for the Governor in Council, upon application made by any municipal council or road board within whose jurisdiction any lands, streets, or roads along the line of any railway authorised to be constructed as aforesaid may be situate, and also without any such application, and notwithstanding that any street or road intersected by any such line of railway shall have been closed to traffic, either by being permanently fenced across or otherwise, to declare, order, and direct the construction of such under and over bridges and level crossings, accommodation roads, approaches, cattle creeks, water-courses, drains, culverts, and other works under, over, upon, or across any such land, street, or road intersected by such line of railway as may in the opinion of the Governor in Council be necessary and proper for the public accommodation and benefit."

SIR T. COCKBURN - CAMPBELL moved to strike out the words "to declare," in the thirteenth line. The clause, as he was advised, referred to streets or roads in existence at the time of the construction of the railway, and not to any new streets that may hereafter be declared.

THE COMMISSIONER OF RAILWAYS (Hon. J. A. Wright) said if that was the intention of the clause it had been exceedingly badly drafted,—he said it with all due deference. It appeared to him to refer to any other streets which, in the opinion of the Governor in Council, might become necessary for the public accommodation; and, if the object was to limit it to streets and roads in existence when the contract was being executed, there were words in it which were most misleading. So long, however, as the hon. member assured them it was only intended to apply to streets already in existence, he did not suppose there would be any serious objection to it.

Amendment put and passed, and words struck out.

**SIR T. COCKBURN-CAMPBELL** moved to insert in lieu thereof the words "at any time, and from time to time hereafter to."

**MR. PARKER** said he must again point out that this was imposing fresh duties and responsibilities upon the contractors, and he wished to raise his voice against it, for he felt they had no right—although they had the power—to impose any fresh obligations upon a contractor, without his consent, and especially without giving him any intimation, or consulting him in the matter at all.

**MR. KEANE** said hon. members seemed to forget that this contract and another contract was entered into under a former Act, and now it was proposed to bring the contractors under a fresh Act. No doubt the House could do it, but, so far as these two contracts are concerned, the bill would be so much waste paper, for they had two companies to deal with that wouldn't be sat upon, nor submit to anything outside the four corners of their contract. They entered into those contracts, under the provisions of "The Railways Act, 1878," and he was very certain they would not submit to have their status altered to please the whim of an hon. gentleman who chose to bring in a bill for the special benefit of his own town. It would simply mean, by-and-bye, when his hon. friend the Commissioner called upon these companies to do this work, they would simply tell the Commissioner to do it himself.

**SIR T. COCKBURN-CAMPBELL** said—as to what had fallen from the hon. member for Sussex, that no notice had been given to the company—he did not suppose any formal official notice had been given to them; but he assured the hon. member that before he took any steps whatever in the matter, he wrote to the company stating exactly what he proposed to do.

**MR. PARKER:** Did you send them a copy of the bill?

**SIR T. COCKBURN-CAMPBELL:** I stated what the provisions of it would be.

**THE COMMISSIONER OF RAILWAYS** (Hon. J. A. Wright) said there seemed to be a misconception in the mind of the hon. member in charge of the bill as to the meaning of the first clause of the

contract. What the contractors had to do was to provide such crossings and other works "as may be necessary" and "sufficient"—not sufficient in the opinion of the Town Council, or in the opinion of the hon. member for Albany, but in the opinion of the Governor in Council, or the Commissioner of Railways acting on the Governor's behalf. He believed there were at present sufficient level crossings in the town of Albany. The hon. baronet said he was actuated by the best intentions towards the company; it was a somewhat curious way of showing it, if it was the intention to call upon the company to provide crossings for any future streets. It reminded him of the words of the old couplet—

*It is all very well to dissemble your love,  
But why did you kick me down stairs?*

**SIR T. COCKBURN-CAMPBELL** said he had already stated that the bill only related to streets and roads that were in existence while the line was in course of construction. Unfortunately no means had been provided—or at any rate it was doubtful—to carry into effect what was obviously the intention of the contract, and what was certainly the intention of the Legislature when it framed it; and to provide these means was the sole object of the bill. The public at present were apparently without any definite means of protecting their rights of traffic over streets intersected by the railway, or of obtaining such further accommodation as the circumstances of the future may necessitate.

Amendment put, and committee divided—

Ayes ... .. 17

Noes ... .. 4

Majority for ... 13

AYES.		NOES.	
Mr. H. Brockman		Mr. Keane	
Mr. Burt		Mr. Richardson	
Mr. Congdon		Mr. Scott	
Hon. J. Forrest		Mr. Parker (Teller.)	
Hon. Sir M. Fraser, K.C.M.G.			
Mr. Harper			
Mr. Horgan			
Mr. Marraion			
Mr. Morrison			
Mr. Pease			
Mr. Randell			
Mr. Shenton			
Mr. Sholl			
Mr. Venn			
Hon. C. N. Warton			
Hon. J. A. Wright			
Sir T. C. Campbell, Bart.			
(Teller.)			

SIR T. COCKBURN-CAMPBELL moved to insert after the word "construction," in the fourteenth line, the words "and maintenance."

MR. PARKER said the hon. member became bolder and bolder as the bill progressed. He was satisfied at first by making the company responsible for the construction of these works; now he wanted to make them responsible afterwards for their maintenance. He should like to know whether the hon. baronet found that too in the contract.

SIR T. COCKBURN-CAMPBELL said it appeared obvious that inasmuch as the company had to construct these accommodation works they had also to maintain them afterwards; otherwise who was to do so?

THE COMMISSIONER OF RAILWAYS (Hon. J. A. Wright) said the amendment was unnecessary. No specific provision was made in any such contracts as regards maintenance; that went without saying. The railway company of course would have to keep up these works like all other works necessary for the line. The words were not required.

SIR T. COCKBURN-CAMPBELL said he was advised they were.

Question put—that the words be inserted:

Committee divided, with the following result—

Ayes	...	...	15
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Noes	...	...	5
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Majority for	...	10
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AYES.	NOES.
Mr. H. Brockman	Mr. Keane
Mr. Burt	Mr. Scott
Mr. Congdon	Mr. Sholl
Hon. J. Forrest	Hon. J. A. Wright
Hon. Sir M. Fraser, <i>q.c.</i>	Mr. Parker (Teller.)
Mr. Harper	
Mr. Horgan	
Mr. Marmion	
Mr. Fearse	
Mr. Randall	
Mr. Richardson	
Mr. Shenton	
Mr. Venn	
Hon. C. N. Warton	
Sir T. C. Campbell, Bart.	
(Teller.)	

THE COMMISSIONER OF RAILWAYS (Hon. J. A. Wright) moved to add at the end of the clause the words "Provided that this section shall only apply to streets and roads declared or in existence at the time of the construction of the railway." He thought it would be

well to add these words, seeing that the clause appeared to him somewhat ambiguously worded. The words simply gave effect to what was stated to be the intention of the bill.

Amendment put and passed.

Clause, as amended, adopted.

Clause 2—Short title:

Agreed to.

MR. BURT, in accordance with notice, moved (without comment) the following New Clause: "The construction and maintenance of any such works so ordered and directed as aforesaid shall, in the case of every private line of railway, be undertaken and carried out, and all costs and expenses of the same and incidental thereto shall be borne and paid, by the persons or company to whom such railway line may belong, and if such persons or company shall not construct such works within such time as the Commissioner of Railways, under the direction of the Governor in Council, shall by notice in writing require, it shall be lawful for the said Commissioner to construct such works, and in case the persons or company owning such railway line shall refuse or neglect to pay the costs and expenses of and incidental to such works for the space of fourteen days after demand, then such costs and expenses shall be recoverable from such persons or company as aforesaid at the suit of the Commissioner of Railways in any court of competent jurisdiction, and upon the refusal, neglect, or default of such persons or company to maintain the said works from time to time to the satisfaction of the Commissioner of Railways, he may maintain the same and recover from time to time in manner aforesaid from such persons or company all costs and expenses of and incidental to such maintenance."

Clause agreed to, *sub silentio*.

MR. VENN moved that the following New Clause be added to the bill: "In the event of any new street being hereafter opened within a townsite, or new road being hereafter laid out and defined by any road board, it shall be lawful for the Governor in Executive Council, on the application of the Municipal Council of the town or road board of the district within which such street or road respectively may be situate, to

"order and direct such over or under bridges, level crossings, accommodation roads, approaches, and other works as may in the opinion of the Governor in Council be necessary for the purpose of carrying such street or road across any line of railway. Provided always, that all costs and expenses of the construction and maintenance of any such works shall be paid and borne wholly by the council or road board upon whose application the same shall be so ordered." Hon. members would see that the clause was differently worded from that which appeared on the notice paper, but it carried out the exact sense of that clause. He thought the committee would agree with the provisions of the clause, and that he need say nothing in support of it.

MR. MARMION thought it was likely to bring the local corporation into conflict with the railway company, unless care were taken to protect the former against proceedings for trespass. These works, which had to be kept in order by the municipal council or road board (as the case might be) would be on the company's land.

THE COMMISSIONER OF RAILWAYS (Hon. J. A. Wright) said the rule in England was that accommodation bridges, over or under, were kept in repair by the vestry of the parish; but the level crossings, which were between the railway fences, were kept in repair by the railway authorities. This avoided any interference with the working of the traffic, and the difficulties of a dual control.

Clause agreed to.

MR. PARKER said he had a New Clause now to propose. The 67th clause of the contract provided that no Act of the Legislature, passed after the contract was entered into "shall in any manner operate against the contractor or his syndicate or company, so as to limit the advantages granted to him under the contract." That being so, there could be no objection to the clause he was about the move, and which was as follows: "Nothing in this Act contained shall be construed to in any manner operate against the persons or company to whom such railway shall belong, so as to limit the advantages granted to such persons or company under the contract with the Government for the construc-

tion and maintenance of such railway." It had been argued by the "other side" (as he might call them) that this bill would not limit the advantages gained by the company under their contract; if so, there could be no possible objection to this clause.

SIR T. COCKBURN - CAMPBELL failed to see any necessity for the clause, seeing that the contract provided for precisely the same thing.

MR. PARKER said as they were about to pass a bill which in his opinion did limit the "advantages" of the company under the contract—although it was denied by the supporters of the bill—he thought it would be well to set it forth expressly in the bill that there was no intention to detract from any advantages now enjoyed by the company.

MR. MARMION said it appeared to him simple nonsense to endeavor to get in by a side wind like this what the hon. member had been unable to do by open opposition. His own opinion was that this bill contained no limitation of the advantages granted to the company, nor did it contemplate any limitation. If there was any doubt as to the rights of the company, he had no doubt the company in their own interests would be prepared to test the point in a court of law.

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) said that any force which the contract had in law, it already had under the Act confirming the contract, and it seemed to him this new clause in no way strengthened the 67th clause of the contract, while, on the other hand, it was calculated to create a wrong impression; it might lead to the impression that the House had some doubt on the point. He was sorry to see the line taken by the hon. member for Sussex with reference to the bill. It was absurd to say that the House had any desire to act unfairly towards this company. It was only a few days ago that they unanimously agreed to a resolution, releasing the company in some measure from certain provisions of their contract which they were desirous of having modified—he referred to the terms and conditions relating to the selection of their lands. He was sure neither that House nor the Government had the slightest wish to take away any of the advantages granted to this company, and he thought the

House must deprecate the line of action and the line of argument adopted by the hon. member for Sussex in regard to this bill. The company and the Government had got on very well together so far, and he deprecated anything that was calculated to disturb this good feeling, or to interfere with the amicable relations which had hitherto existed.

SIR T. COCKBURN-CAMPBELL said he could not possibly support the clause. His contention was that there was nothing whatever in the bill which limited the "advantages" of the company; and to admit this clause into the bill would be a tacit admission that they thought the bill might limit the advantages granted to the company.

MR. BURT said if the hon. member for Sussex thought the bill did limit the advantages gained by the company under the contract, perhaps the hon. member would be good enough to inform them what those "advantages" consisted of. Was the right of putting up fences across streets and roads an "advantage"? Was the construction of level crossings an "advantage"? What did the "advantages" consist of that they were proposing to limit or take away?

MR. PARKER said it could be clearly shown that the bill limited the advantages of the contractor. Under the contract, streets which had been closed remained closed permanently, and there was no power to call upon the company to re-open them again, whereas this bill empowered the Governor to do so. The sub-section referred to in the contract (sub-section c of the first clause) only referred to roads. That was his contention.

SIR T. COCKBURN-CAMPBELL said that might be the hon. member's contention; others contended differently, and that the sub-section in question was introduced for the purpose of fully protecting the rights of the people as to access across lands intersected by the railway, whether in town or country. There couldn't be the slightest doubt about that.

MR. PARKER: Perhaps the hon. member would be surprised to hear that is not the construction put upon it by the Government itself. The Government have virtually admitted that this sub-section does not refer to streets, but to roads, for the accommodation of lands

intersected by the line as it traverses the country.

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest): No, no.

MR. PARKER: I will produce it in writing to the hon. gentleman, any time he likes. The Government themselves have admitted it does not refer to streets.

SIR T. COCKBURN-CAMPBELL: The Government or the Attorney General?

MR. PARKER: The Government.

THE COMMISSIONER OF RAILWAYS (Hon. J. A. Wright) asked the hon. member to withdraw his clause, as it was, in his opinion, altogether useless to insert such a clause in the bill when they had it in the contract. He thought the bill now was such as would commend itself to most people. It was very materially different from the bill as brought in, and in its present shape it appeared to him satisfactory.

MR. PARKER was sorry he could not consent to withdraw the clause, for he felt it his duty—not so much in the interests of the company but in the interests of the colony and its good name—to press it, whatever amount of support it received. He thought they were bound to show that they were prepared to abide by the terms of this contract—terms which had been formulated by that House itself.

Clause put and a division called for—

Ayes ...	...	...	3
Noes ...	...	...	15

Majority against ... 12

AYES.  
Mr. Keane  
Mr. Scott  
Mr. Parker (Teller.)

NOES.  
Mr. H. Brockman  
Mr. Burt  
Mr. Congdon  
Hon. J. Forrest  
Hon. Sir M. Fraser, &c. &c.  
Mr. Harper  
Mr. Horgan  
Mr. Morrison  
Mr. Pearce  
Mr. Shenton  
Mr. Sholl  
Mr. Vann  
Hon. C. N. Warton  
Hon. J. A. Wright  
Sir T. C. Campbell, Bart.  
(Teller.)

Preamble read:

MR. PARKER moved, as an amendment, that the following words be struck out: "And whereas doubts have arisen as to the power of the Commissioner of Railways to require, in the case of private

lines of railway, the construction of such under and over bridges and level crossings, accommodation roads, approaches, cattle creeks, watercourses, drains, culverts, and other works, as may be necessary to be provided for the purposes aforesaid." He could not subscribe to this at all. It said doubts had arisen as to the power of the Commissioner to require these things to be done. There was no doubt at all. That was not the reason the bill had been brought in. It had been brought in to limit the advantages gained by the company under their contract, and to increase the power of the Governor beyond the power given to him under the contract, as one of the contracting parties. If there really was any doubt as to the rights of the company or the powers of the Governor, under this contract, the contract itself provided a way out of the difficulty, by a reference to arbitration.

Amendment negatived, on the voices.

Title read:

SIR T. COCKBURN-CAMPBELL said the bill had gone much further than he in his modesty intended it to go when he introduced it. The bill that he introduced was a bill to carry out what its title indicated, namely "to enable the Governor in Council to re-open streets closed under the provisions of the Railways Act, 1878." The bill now had gone considerably further than that; therefore he moved that the title of the bill be an Act "to make provision for the construction of certain accommodation works on railways."

Agreed to.

Bill reported.

#### NEWSPAPER LIBEL AND REGISTRATION BILL.

This bill was further considered in committee.

MR. SCOTT said that clause 3 of the bill had been struck out, and he had now to move a new clause instead of it, as he said he would. The original clause, it would be remembered, provided that no action for libel should be brought unless the plaintiff made a declaration that he had sustained special damage, and gave full particulars of such special damage; and in no case would a plaintiff be entitled to recover what was called "sentimental" damages. That clause appeared

of somewhat too revolutionary a character to some hon. members, and he had withdrawn it. He had now to move the following clause in lieu of it, to compel a certain class of plaintiffs to give security for costs,—a provision which it was believed would afford newspapers some protection against what were termed speculative actions. The clause was as follows: "On an affidavit being filed by the defendant in any action for libel brought after the passing of this Act that the plaintiff in such action is an uncertificated bankrupt, or has within twelve months of the issue of the writ of summons in any action as aforesaid liquidated or compounded with his creditors, or is a person without fixed domicile, or is to the belief of the defendant and some other person of repute without visible means of paying the costs of such action if unsuccessful, the Court or a Judge thereof at Chambers may order all proceedings in such action be stayed until security for such costs shall be given to the Master of the Supreme Court as he shall think sufficient: Provided always, that either the plaintiff or defendant in any such action shall be at liberty to appeal to the Full Court to vary, reverse, or rescind any such order."

Clause agreed to, *sub silentio*.

Preamble and title, agreed to.

Bill reported.

#### GENERAL LOAN AND INSCRIBED STOCK ACT AMENDMENT BILL.

THE COLONIAL SECRETARY (Hon. Sir M. Fraser), in moving the second reading of this bill, said it had been brought in solely at the instance of the Crown Agents, for the benefit of the colony, with a view to give greater stability, and to increase the market value of our stocks. It was unnecessary at this stage for him to explain the provisions of the bill; any information which might be required in committee he should be happy to give. It was a mere formal bill, to carry out a suggestion of the Crown Agents as to inscribing stock.

Motion put and passed.

Bill read a second time.

#### LAND REGULATIONS ARBITRATION BILL.

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) moved the

second reading of a bill to enforce the provisions of arbitration, contained in the Land Regulations of 1887. The object of the bill, he said, was to make statute law of the provisions of our land regulations dealing with the question of arbitration, in cases of compensation for improvements upon pastoral leases, when purchased under the conditional purchase clauses. There had been some doubt as to whether these regulations had the force of law—although framed upon an Imperial statute—where penalties were enforced; and, as in these arbitration clauses the arbitrators had power to award costs to the extent of £50, and it might be necessary to recover these costs by an action at law, it was considered advisable to remove all doubt as to the legal validity of these provisions, and this short bill made statute law of them.

Motion agreed to.

Bill read a second time.

#### GEOLOGICAL MUSEUM AT ALBANY.

MR. HARPER, in moving "That in the opinion of the House considerable benefit would accrue to the colony were the Government to open a small museum at Albany, for the purpose of displaying samples of auriferous and other ores, with full and reliable information with regard to the same as far as may be obtainable," said we were all desirous of bringing before the notice of capitalists and the investing public in all parts of the world, those various natural resources that we possessed, but which unfortunately we were unable at the present time to develop, owing to the want of capital; and it had occurred to him that as a great number of capitalists, many of them probably seeking out profitable investments for their money, were constantly calling at Albany, it would be a good thing if we had a representative collection of our mineral and other resources on view at that port of call, where the Government and persons interested might have an opportunity of exhibiting specimens of the colony's natural products. He did not think it would cost much; as exhibits would no doubt be readily offered by those interested, and also, he should imagine, all necessary information, if the Government took the matter in hand.

SIR T. COCKBURN - CAMPBELL said the hon. member had asked him to second the motion, and, although he had not heard anything of the hon. member's intention until he had now spoken, he really did think that something of this kind might be advantageously carried out. When at Albany lately, for two or three days, a large number of passengers landed there, *en route*, seeking information on all sorts of questions, and particularly about our goldfields, and he certainly thought it would be desirable in the interest of the colony if these thousands of passengers, who pass backward and forward through Albany, but who have no opportunity of visiting this part of the colony, should be afforded a chance of inspecting specimens of our natural resources, and all necessary information. As to the question of cost, he knew nothing about that, but no doubt the Government could arrange with the Resident Magistrate and some of the people of the town to have a place where these exhibits could be stored.

THE COLONIAL SECRETARY (Hon. Sir M. Fraser) said he most cordially agreed with the object in view; of course the only difficulty was that of ways and means, but he thought they might at any rate be able to get a collection of mineral exhibits without incurring much expense, and arrange for their being stored in some convenient place for inspection—possibly in the Court House. He should have much pleasure individually in co-operating with the Government Geologist, and with private persons who had mineral specimens which they would lend for this purpose, so as to have a fairly representative display of the undoubted mineral wealth of the colony. Probably arrangements might be made with the Adelaide Steamship Co. for the transport of any exhibits of this kind to Albany.

MR. RICHARDSON had much pleasure in supporting the motion. He would suggest that, in addition to these exhibits, there should be a short hand-book of the colony, in an intelligent, readable form, describing our resources and setting forth the leading features of our land regulations, which might be sold at a low price, say sixpence; also that copies of the progress reports of the Agricultural Commission should be supplied, for



distribution amongst those visitors who might be interested in such matters. He thought the idea was a good one, and that the colony would probably reap considerable advantage from it.

Mr. SHOLL thought if they were going to do anything in this direction, they ought to have it done properly, and have a thoroughly representative display, not only of our minerals but also our other resources, and have a first-class museum. He thought it would be a mistake to have a mere packing-case sort of show, and that it would be better to have the thing done properly, if done at all, and have a sum placed on the Estimates annually, for the purpose. He hoped there would be no gratuities asked for, in connection with this museum, like that at Fremantle.

Motion put and passed.

#### CIVIL SERVANTS DOING PRIVATE PROFESSIONAL WORK.

MR. SCOTT, in accordance with notice, moved "That an humble address be presented to His Excellency the Governor, praying that he will be pleased to issue instructions to all Civil servants that, in future, they shall not be permitted to undertake any private professional work." The hon. member said the motion was the outcome of a deputation that recently waited upon the Governor, to bring under His Excellency's notice certain grievances which they conceived themselves laboring under, in regard to their profession, as architects chiefly. They complained that certain public officers, following the same profession—and they instanced one particular case—did work at prices lower than the usual professional scale, thus depriving them of work which otherwise would fall to their lot. No doubt these gentlemen had a substantial grievance, if their representations were well founded—and he had no reason to doubt them—and that it was very unfair that those who were employed in the public service and paid for out of public funds, should be allowed to undercut them in their prices, and be allowed to come into unfair competition with them. He noticed that since the deputation had waited upon His Excellency, certain instructions had been issued to public officers on this subject; but he understood that these instructions

did not go to the root of the evil, and did not satisfy the members of the profession. One of these instructions stated that "except in the few special cases in which the practice may already have been allowed, all officers are debarred from private work, for remuneration, in the profession, trade, or calling in respect of which they receive an official salary." He thought it would have been more satisfactory if it had been mentioned what these exceptions were, and whether there was any agreement in writing under which, in these "few special cases," this practice had been allowed. Another instruction was that "no officer who has been allowed to accept professional work in his private time is permitted to undertake such work at rates or charges lower than those recognised in the profession concerned." He was informed that this had certainly been done in the past, to the detriment of private persons in the profession. There was one particular case in which an officer, whom he could name—but perhaps it was not advisable—had actually deprived members of the profession of work which they would otherwise have obtained, by simply undertaking to do the work at a much lower rate than they could afford to do it. Of course a man who was in receipt of a regular salary, and other advantages, as a public officer was in a position to do work at rates lower than private persons in the same profession; but it certainly was most unfair that they should be allowed to do so, and take the bread out of their mouth. He thought the Government should take some more decisive steps in this matter than were proposed in the memorandum recently issued, and that effectual steps should be taken to prevent this being done in future, except in cases where there was a specific agreement in writing between the Government and any public officer, under which it was agreed that the officer should be allowed to do private work. Even in that case he thought this officer ought not to be allowed to do work at rates which left private persons in the profession in a position which left them unable to compete.

THE COLONIAL SECRETARY (Hon. Sir M. Fraser) said he thought it would have been more correct, when the hon. member referred to there having been

cases in which this had been done, if he had confined his strictures to one solitary case; and he did not think it would occur again. As hon. members were aware, a deputation had waited upon His Excellency a few days ago, with reference to this matter, and His Excellency had issued the following instructions, which would appear in the *Government Gazette*:

"(1.) All Government Officers are strictly prohibited from doing any private work whatever in office hours, or with Government materials, or in the Public Offices at any time, or from using an official railway pass on any journey connected with any private work. (2.) Except in the few special cases in which the practice may already have been allowed, all Officers are debarred from private work, for remuneration, in the profession, trade, or calling in respect of which they receive an official salary. (3.) In default of special reasons and express stipulation beforehand to the contrary, future appointments, increases of salary, and promotions in the Civil service of the Colony will carry the like prohibition. (4.) No Officer who has been allowed to accept professional work in his private time is permitted to undertake such work at rates of charges lower than those recognised in the profession concerned."

He thought the House would admit that these instructions were fair and reasonable to all parties, and it was hoped they would put an end to any further cause for complaint. He trusted the hon. member would be satisfied with the action of the Government in the matter.

MR. RICHARDSON thought these instructions ought to satisfy those gentlemen who had a grievance. Their complaint, he understood, was that public officers did the work at lower rates than those recognised in the profession generally. The 4th regulation dealt with that complaint, and he thought provided all they could reasonably expect.

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) said this question of civil servants engaging in any employment outside their official duties was a very difficult question to deal with. He did not quite understand what the intention of the mover of this resolution was—whether he wished to restrain public officers from doing any kind of

private work, or whether he simply wished to prevent them from engaging in the particular class of work for which they were employed in the public service. He presumed it was the latter; otherwise he could see that very great hardship indeed might arise. For instance, an officer employed as a clerk might have a genius for music, or for poetry, or for scientific pursuits, and, in his leisure hours, he might compose pieces of music, or poetical work, and publish it, but he would be debarred from doing it, if the intention of this resolution was to debar a public servant from doing any work at all, outside his office duties. The House must also bear in mind that in this colony, as regards most professions, there was but very slight competition; and if they were to preclude Government officers from engaging in any professional work, the public probably would be the sufferers. As to the professional architects, there might perhaps be some ground for their grievance; but, as a general rule, he thought it would be a disadvantage to the public if a hard and fast line were drawn. He thought things must be at a very low ebb, when the mere fact of one Government officer having made one or two plans, for private persons, should be made the subject of a deputation to His Excellency the Governor and of a motion in that House. He thought the motion was premature, and that there was no great cause for complaint at present, though hereafter perhaps, when the various professions became more numerous represented, some restriction of this kind might become necessary; but he could not believe there was any serious necessity for it at present. They must remember, too, that a change in the Constitution was about to take place, and one of the first Acts of the new Government would be a Civil Service Act; and that would be the time, he thought, for placing these restrictions upon public officers.

MR. MORRISON thought, before they bound their public servants too tightly, they should see that they were receiving sufficient pay to live upon, and to bring up their families. He thought the first and the fourth regulation issued by the Government would meet the only real cause for complaint—that of public officers doing the work under the ordinary rates, or doing it during office hours.

He knew his own firm sometimes was very glad to get the services of a Government draftsman, and, so long as the work was not done in office hours, and done at the ordinary rates, he saw no great harm in it, while the probability was that they could get the work better done than if done in their own office. Of course, no public servant ought to be allowed to do private work during office hours, but he thought it would be very hard indeed to deprive a man of all chances of supplementing his income simply because he happened to be a civil servant.

THE COMMISSIONER OF RAILWAYS (Hon. J. A. Wright) said that, as the head of the department in which the particular officer referred to by the hon. member for Perth was employed, he must say he thought the matter had been exaggerated, and that the hon. member in bringing forward this motion was belaboring a willing horse, for the Government were perfectly willing to do everything in reason to assist him. He thought the hon. member was bringing a very powerful piece of machinery to bear to crush a very small object, when he asked the House to pass a motion of this kind because one public officer had drawn out a plan or two, for a friend or two. The question was—if the House were to adopt this motion, where were they going to stop? Where would they draw the line? They would next have market gardeners complaining because some public servants cultivated their own fruit and vegetables, and so interfered with the business. What possible harm was there in some unfortunate Government clerk, in receipt of a very insufficient salary, eking out his small pay by copying a few letters, of an evening, occasionally? The whole thing appeared to be in a very small compass, and really unworthy of all this agitation, and of occupying the attention of that House, more especially in view of the instructions which the Governor had just issued. As to the particular officer referred to, he did not believe he had done work at any time at a lower rate than the usual scale; if he had, it was only in some exceptional case, probably out of friendliness towards gentlemen employed in the same department as himself, and possibly he might have done the work for nothing, as no doubt the hon. member

himself had done for members of his own profession. He could not help thinking that this matter had been brought forward by certain architects either out of a petty feeling of spite or of jealousy as to the way the work was done.

MR. SHOLL hoped the hon. member for Perth would be satisfied with the instructions issued by the Government in this matter, for it appeared to him the Government had endeavored to meet the wishes of the deputation. The question raised was a very difficult one to deal with, for it would be hard to say where they could draw a line. A public officer would not be allowed to work in his own garden, or to grow a few cabbages, if they were to draw a hard and fast line. He thought if the Government carried out these instructions they would do all that could be reasonably expected of them.

Motion put and negatived.

The House adjourned at half-past ten o'clock, p.m.

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## LEGISLATIVE COUNCIL,

*Wednesday, 5th December, 1888.*

Loan Estimates, 1889: in committee—Sand-Drift Bill: third reading—General Loan and Inscribed Stock Bill: in committee—Land Regulations Arbitration Bill: in committee—Adjournment.

THE SPEAKER took the Chair at seven o'clock, p.m.

### PRAYERS.

### LOAN ESTIMATES, 1889.

(SUPPLEMENTARY LOAN ACT, £100,000.)

The House went into committee for the consideration of the Loan Estimates (Supplementary Loan Act, £100,000).

*Item:* Development of Goldfields, £10,000.